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1 Q. There is a plaintiffs' memorandum in support of your
2 motion for a temporary restraining order filed with the
3 Court. And in that, there was an affidavit from Mr. Joseph
4 Hill who I understand is one of your campaign supporters; is
5 that correct?

6 A. He is working on my behalf, yes, sir.

7 Q. In his affidavit, he specifically indicates with
8 respect to City streets with curbs and sidewalks, the City
9 owns the real property located between the curb and the
10 area to the sidewalk. We read that to you yesterday; right?

11 A. Yes.

12 Q. Oh. So do you agree with Mr. Hill's statement based
13 upon his experience as a realtor since 1965 that that
14 property is owned by the City?

15 A. Actually, I'm not sure what he is saying is
16 correct. In fact, in speaking to Mr. Hill, he said to me
17 that on a property-by-property basis, you have to go out
18 and look at the survey to understand where the line is. I
19 think he was saying as a general prospect, that that may
20 be, you know, the general rule around the town, but on a
21 property-by-property basis, that may or may not be the
22 case. You have to look at the survey to understand where
23 the property line is.

24 Q. Well, this is an affidavit that you prepared for this
25 judge to look at to make a decision on. Does it say in this

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1 affidavit this idea you have to do a property-by-property
2 analysis?

3 MR. SCHILTZ: Objection, Your Honor. The
4 witness didn't prepare this. There is no foundation for
5 that.

6 THE COURT: All right. Overruled. Your
7 comments are on the record.

8 Go ahead. I will ask to you reformulate it
9 without the editorial comment.

10 MR. RHODUNDA: I'm sorry, Your Honor. Thank
11 you. I'm sorry.

12 THE COURT: And you know what? Why don't we
13 do this? In fact, you mentioned the affidavits a couple
14 times in proceedings. I heard Mr. Rhodunda indicate a
15 willingness to have the affidavits made part of the record
16 as substantive evidence for this hearing. Did I understand
17 that?

18 MR. RHODUNDA: That's correct, Your Honor. Yes.

19 THE COURT: Is that something you would like as
20 well?

21 MR. SCHILTZ: No.

22 THE COURT: You don't want your own affidavits
23 in?

24 MR. SCHILTZ: I don't want the opponents'
25 affidavits in, Your Honor. He has got affidavits from the

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1 City Commissioner which he attached to his pleadings.

2 THE COURT: All right. Good enough.

3 MR. SCHILTZ: I assume that if I wanted mine in
4 that --

5 THE COURT: I assume you are right. So your
6 "no" is done.

7 MR. RHODUNDA: Well, we'll deal with our
8 affidavits later but presumably it's part of our filing with
9 the Court in support of our memorandum, just as the
10 plaintiffs filed a memorandum with attached affidavits, we
11 believe those affidavits should be part of this record as
12 well as the affidavits they supported with regard to their
13 memorandum.

14 MR. SCHILTZ: When we get there, I'll object on
15 hearsay grounds, Your Honor.

16 THE COURT: Go ahead with your
17 cross-examination.

18 MR. RHODUNDA: Thank you.

19 BY MR. RHODUNDA:

20 Q. Mr. Sokolove, is it your opinion that the City does
21 not own the property between the sidewalk and the curb?

22 A. Sir, honestly, I don't have -- first of all, I'm
23 not sure if you are asking as a legal matter or factual. I
24 don't know the answer to that question. And what I am told
25 by people who have been in the City for years, way, way

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1 longer than I, that on any given street you can have, you
2 can have all kinds of outcomes. Whether the City chooses to
3 enforce something may be one matter, who actually owns the
4 land may be another. But I'm not qualified to give you an
5 opinion on that. I don't know. I don't know. I'm not sure
6 anybody does.

7 Q. Well, Mr. Hill gave that opinion; is that correct?

8 A. I can look at Mr. Hill's affidavit and perhaps I
9 would agree with your characterization of it. I didn't
10 prepare. I don't know what he meant by it. I've spoken to
11 him since then and I guess he will be a witness and you can
12 ask him what he meant by it.

13 Q. Now, the City removed at least one of your signs from
14 a City park; is that correct?

15 A. That's correct.

16 Q. And that was Gerar Park; is that correct?

17 A. Lake Gerar, right.

18 Q. Lake Gerar Park. Did you see any political signs in
19 Lake Gerar Park?

20 A. I saw a lot of other signs but not political signs.

21 Q. So you saw no other political signs on Lake Gerar
22 Park; is that correct?

23 A. I saw no other political signs, correct.

24 Q. And I noticed in one of your prior pleadings you
25 actually showed a sign that showed "no swimming" and I

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1 believe that was posted in Lake Gerar Park. Do you recall
2 that as part of your submission to the Court?

3 A. The one I recall is there was a sign for the City
4 where they're selling -- right next to my sign, was
5 literally right next to where I placed my sign in the park,
6 there was a commercial sign for the City selling parking
7 stickers and that was right up on the pole in the park. So
8 I put my sign right near it so as to not appear to be
9 further littering the park. I wanted to try to be
10 consistent with what the City was doing with their own
11 commercial sign.

12 Q. So in your opinion, the City identifying where you
13 can buy parking stickers to park in the City of Rehoboth is
14 a commercial enterprise?

15 MR. SCHILTZ: Objection, Your Honor. The
16 witness is not being offered as an expert.

17 THE COURT: Overruled.

18 A. Honestly, I mean that's -- the City makes a lot of
19 money for their parking stickers, so it's a commercial
20 venture being done on behalf of the City. It's their sign,
21 I acknowledge that.

22 BY MR. RHODUNDA:

23 Q. Mr. Sokolove, there is a little median area right
24 across from Lake Gerar Park where yesterday you testified I
25 believe three of your signs were removed from that little

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1 median area?

2 A. Yes, sir.

3 Q. And I believe you call that a small park because it
4 separates several different rows in triangular fashion; is
5 that correct?

6 A. Yes, sir, that's correct.

7 Q. Did you see any other political signs in that median
8 area?

9 A. No, I was the only one who put them there.

10 Q. I'd like to turn to Plaintiffs' Exhibits 1 and 2
11 which I believe are the interrogatory responses that we
12 received last night after the deposition, after your
13 deposition was completed. Do you have those in front of
14 you?

15 A. Yes, sir.

16 Q. As you know from Mr. Onizuk's testimony, he contends
17 that he took no signs from private property; isn't that
18 correct?

19 A. That's what I understand him to be saying.

20 Q. And that the only signs he testified to, and you were
21 there, was that the signs were on a public property; is that
22 right?

23 A. I think his version of what is public and private may
24 differ from mine.

25 Q. Okay. On Plaintiffs' No. 1-I --

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1 A. Yes, sir.

2 Q. -- you have 59 Lake Avenue, four signs removed, one
3 from a flower pot one from a flower pot, two from flower
4 beds. He denied taking those; is that correct?

5 A. I'm not certain. I was confused by his testimony. I
6 think he denied taking -- he described where one of them was
7 and it matches exactly what I call the flower box.

8 Q. Let me ask you, did you see him take these signs?

9 A. I know exactly where I placed them and --

10 Q. But did he?

11 A. He admitted he took them.

12 Q. Did you see a City employee take those four signs?

13 A. My valet guys standing right next to him did.

14 Q. And who is your valet guy?

15 A. An individual by the name of Frankie or Francois Nota
16 (phonetic).

17 Q. So his testimony then is inconsistent with the
18 statement to the police by Mr. Bainter (phonetic); is that
19 correct?

20 A. No, sir.

21 Q. Mr. Bainter indicates that the only signs taken from
22 your property were on the far ends of the property, not the
23 ones in the flower beds and in front of your business; is
24 that correct?

25 A. No, that is not correct, sir. The far end of the

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1 property, I have a flower pot at one end and a flower box at
2 the other end of the property. Those are exactly the two
3 boxes that I'm talking about and I think that Mr. Bainter
4 was referring to.

5 MR. SCHILTZ: Your Honor?

6 THE COURT: Hold on.

7 Go ahead.

8 MR. SCHILTZ: It appears Mr. Rhodunda is reading
9 from a document and cross-examining the witness. Does he
10 want to provide the witness with a copy of the report or
11 provide me with a copy of the reports which I don't have?

12 THE COURT: He is cross-examining your witness
13 with someone's statement. That is permissible. So if
14 you're objecting to the cross-examination, it's overruled.

15 Go ahead, Mr. Rhodunda.

16 BY MR. RHODUNDA:

17 Q. Now, Mr. Bainter specifically told the police that a
18 sign was taken from east and west property lines; is that
19 correct?

20 MR. SCHILTZ: Your Honor, I'm objecting to lack
21 of foundation. I'm not sure he established a foundation
22 Mr. Bainter said that. This witness hasn't testified to it,
23 no one else has.

24 MR. RHODUNDA: He hasn't introduced a document
25 that suggests otherwise. How can he cross-examine the

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1 witness with respect to these matters?

2 MR. RHODUNDA: We reviewed all of this in detail
3 yesterday at the deposition and we talked all about the
4 signs, and I can go through blow by blow if that is what the
5 Court would like.

6 THE COURT: No, now the objection is lack of
7 foundation. And your response to that is what? Do you have
8 a report?

9 MR. RHODUNDA: I have a police report in
10 front of me, yes. And we, in regard to the defendants'
11 introduction of the one-page report, would introduce the
12 entire police report as an exhibit because it's a public
13 record.

14 THE COURT: All right. Your position on the
15 introduction of Mr. Bainter's -- is it Officer Bainter's?

16 MR. RHODUNDA: I'm sorry?

17 THE COURT: It's Officer Bainter.

18 MR. RHODUNDA: No, this is a Thomas Baker who is
19 the general manager of the restaurant.

20 THE COURT: But it's within the police report of
21 which?

22 MR. RHODUNDA: This is Detective O'Bier's police
23 report.

24 THE COURT: Detective O'Bier's police report.
25 Your position?

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1 MR. SCHILTZ: Your Honor, it's an incomplete
2 report. We did not receive the entire report. It's never
3 been produced and, therefore, we believe it's lacks
4 trustworthiness under 803(6)(D).

5 THE COURT: All right. Tell you what, why don't
6 you give me a copy of the report and a copy to opposing
7 counsel, we'll resolve this right now.

8 MR. SPEAKMAN: I believe opposing counsel
9 already has one. We provided one yesterday, Your Honor.

10 THE COURT: Show it to him, and hand a copy up
11 to me because, Mr. Schiltz, I'm going to ask you to tell me
12 how it's incomplete.

13 MR. SCHILTZ: Your Honor, if you will turn to
14 the sixth page, Your Honor.

15 THE COURT: All right.

16 MR. SCHILTZ: Read at the bottom, there is a
17 paragraph under Statement of Witness 12, Your Honor.

18 THE COURT: All right.

19 MR. SCHILTZ: The last sentence there: She
20 advised that Ferrese did not know why the signs were there
21 and that if they had been taken from private property, they
22 should --

23 You turn the page, Your Honor, and there is no
24 page. Look at the pagination, Your Honor. You see, on the
25 top of the first page I was referring to, a page six

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1 reference, Your Honor. Top left-hand corner.

2 THE COURT: Not on those copy.

3 MR. SCHILTZ: May I approach?

4 THE COURT: Sure. Why don't you hand it to the
5 clerk.

6 Good enough.

7 (Documents passed forward.)

8 THE COURT: Yes?

9 MR. SCHILTZ: And obviously the sentence
10 continues on, Your Honor. Page seven should be there. It's
11 obviously not. It's not included with any part of the
12 report. That is her examination of Mr. Ferrese, the City
13 Manager and the individual who is going to testify today,
14 Your Honor, regarding the enforcement of this statute.

15 MR. RHODUNDA: Your Honor, we actually explored
16 this issue at the request of counsel. This is a complete
17 record. There should have been a period at the end of the
18 page. Because she said: She advised that Ferrese did not
19 know why the signs were there. And if they had been taken
20 from private property, they should.

21 They should have been taken from private
22 property. That is the dispute. It's our position they have
23 been taking them off public property, not private property.
24 You put a period there. This is not a -- this is a police
25 report written on a very minor issue.

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1 THE COURT: All right. I'm overruling your
2 objection. You wanted your report in, you fought for your
3 report to be in, I'm letting the other report in under the
4 same exception. If you want to undermine it and say there
5 is a missing piece, you go ahead and take a crack at it but
6 I'm not keeping the whole document out over a dispute over a
7 period. Go ahead.

8 I'll give you back your copy, by the way, which
9 is marked up.

10 This is theirs. Sorry. That one is theirs.
11 You should have yours.

12 THE DEPUTY CLERK: You gave you back yours.

13 (Mr. Schiltz sits down.)

14 THE COURT: Okay. We're at 11:25.

15 MR. RHODUNDA: Thank you, Your Honor.

16 BY MR. RHODUNDA:

17 Q. Yesterday during your deposition, didn't we review
18 Mr. Baker's police statements and the police report relative
19 to the locations of the signs?

20 A. Yes, I gave you my opinion of what he was saying
21 because I knew where I put the signs out.

22 Q. But he basically, in his report, indicates to the
23 police that he saw the signs taken from the east and west
24 property lines; is that correct?

25 THE COURT: Hold on just a minute. Are you

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1 asking him whether what he said was correct or are you
2 asking him whether it's correct it was taken?

3 MR. RHODUNDA: I'm sorry, Your Honor.

4 THE COURT: Please.

5 MR. RHODUNDA: Let me move on from this point.
6 I think the report is now admitted as an exhibit.

7 THE COURT: Yes.

8 BY MR. RHODUNDA:

9 Q. Going back to Plaintiffs' Exhibit No. 1,
10 interrogatory responses and the locations of these signs.
11 (I) basically indicates four signs were removed, (ii) says
12 two signs were removed from the grass on either end of the
13 parking spots in front of the restaurant. Now, Mr. Onizuk
14 did confirm he did take those two signs; is that correct?

15 A. To be honest, sir, I'm not sure what he was
16 acknowledging because we got into the dispute as to what was
17 meant by either end of the property. That's why I said to
18 you earlier yesterday and I'm saying to you now, you can
19 only see certain signs by looking out the window as
20 Mr. Bainter could only see. He can know what signs I put up
21 at beyond the windows of the restaurant because he was
22 already working in the building. So I'm not sure what
23 Mr. Onizuk was stating. I'm not even sure what Mr. Bainter
24 was saying. I know where I put all the signs.

25 Q. And my question to you is did you see the City

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1 employee take down these signs?

2 A. Sir, I can only answer that by saying I know where I
3 put them and then my valet guy said all of them were taken.

4 THE COURT: I'm taking that as a no; is that
5 correct?

6 THE WITNESS: Correct, Your Honor.

7 THE COURT: All right. Let's move on.

8 MR. RHODUNDA: May I approach the witness, Your
9 Honor?

10 THE COURT: Sure.

11 (Documents passed forward.)

12 BY MR. RHODUNDA:

13 Q. Mr. Sokolove, yesterday during your deposition, I
14 showed you a plot plan of your restaurant property; is that
15 correct?

16 A. Yes.

17 Q. And that if you look at that plot plan, it shows
18 where your building is located; is that correct?

19 A. It shows where the building and the rest of the lots
20 are located. I own more than just the building lot.

21 Q. I understand that.

22 A. Okay.

23 Q. And you weren't present during Mr. Onizuk's
24 testimony?

25 A. Yes, sir.

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1 Q. Did he mark on that exhibit where the two signs were
2 removed?

3 A. Is this his markings?

4 Q. Well, if you can recall. If you can recall, that's
5 fine. If you can't, that's fine, too.

6 A. He marked some exhibit. This is -- I'm not sure if
7 this is it. He marked on an exhibit where he thought he
8 took signs, but where he said he took them. I'm not sure
9 this is that exhibit, though.

10 Q. Okay. Well, it's marked. I believe it's marked.

11 A. It's marked Defendants' Exhibit 2 is what it says.

12 Q. Correct?

13 A. Okay.

14 THE COURT: There isn't a question pending. He
15 is telling you, I'm hearing him say he doesn't know if there
16 is that is an exhibit or not. Do you have another question?

17 MR. RHODUNDA: No, not on that, Your Honor.

18 THE COURT: All right.

19 MR. RHODUNDA: May I approach the witness again?

20 THE COURT: Yes, freely.

21 (Documents passed forward.)

22 BY MR. RHODUNDA:

23 Q. I'm showing you a photograph that was Deposition
24 Exhibit No. 1 yesterday. You were present during

25 Mr. Onizuk's testimony. Did he mark on that? Do you recall

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1 him marking on there where the sign was taken from?

2 A. My only hesitation before, I couldn't remember if
3 these were my marks or his.

4 Q. Okay.

5 A. If the green mark you are referring to is his, then
6 yes, this is where he marked.

7 Q. And he indicated he removed a sign from that;
8 location; is that correct?

9 A. If this is -- yes, it would appear that he did.

10 Q. And you can look at that picture and you can see some
11 of your campaign signs; is that correct?

12 A. That I put up subsequently?

13 Q. Yes.

14 A. Correct.

15 Q. And Mr. Onizuk testified that those were lawfully
16 placed yesterday; is that correct?

17 A. I don't know. He took them last time so he may have
18 said it now that they're lawfully placed but those were the
19 among the ones he took last time, right in the flower bed.
20 That is what is referred to on the exhibit.

21 MR. RHODUNDA: What I would like to do is be
22 able to give to the Court a package of exhibits and allow
23 the Court to look at the photographs that were deposition
24 exhibits that both Mr. Sokolove and Mr. Onizuk went through
25 and indicated where signs were removed from.

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1 THE COURT: What is your position, Mr. Schiltz?

2 MR. SCHILTZ: I have no objection to him showing
3 the witness the exhibits and asking him where signs were
4 removed from, Your Honor. That seems --

5 THE COURT: That is not what he is asking. He
6 is asking to have these admitted now. What I want is your
7 position.

8 MR. SCHILTZ: I don't believe they can be
9 admitted for purposes of where Mr. Onizuk removed signs
10 because, frankly, Mr. Sokolove hasn't testified about that
11 and my witness hasn't explained that and neither has frankly
12 my witness explained where the signs were removed in his
13 belief. So --

14 MR. RHODUNDA: Well, I'm going to reverse myself
15 and give the pictures from his deposition where he marked
16 where they were removed from. That may be helpful for the
17 Court to actually see the location.

18 THE COURT: Well, it certainly would remove the
19 objection pending right now.

20 MR. RHODUNDA: Right.

21 THE COURT: So why don't you go ahead and if you
22 have a stipulation that these are exhibits that this witness
23 has already marked, that's fine. If you don't have such a
24 stipulation, then I guess we'll do it a picture at a time.

25 MR. SCHILTZ: I did not attend the deposition

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1 yesterday, Your Honor. That is part of the problem. This
2 is the first time I have seen these documents.

3 THE COURT: Okay. I'm assuming your partner did
4 and that is why the two are discussing it.

5 MR. SCHILTZ: You are correct, Your Honor.

6 (Counsel confer.)

7 MR. TUCKER: Your Honor, I apologize. There was
8 one other attorney at the deposition yesterday who handled
9 this one. That is Mr. Lawson. If we can confer with him
10 for a moment?

11 THE COURT: Yes, let's do that and hopefully be
12 as quick as we can.

13 MR. TUCKER: Thank you.

14 (Counsel confer.)

15 MR. SCHILTZ: Your Honor, we will stipulate to
16 the admission of these documents and also stipulate that
17 the Xs that appear in blue ink on the documents are the
18 locations of signs where Mr. Sokolove indicated they were
19 removed from. We will note that some of the pictures in the
20 package don't have markings on them.

21 THE COURT: Some of the pictures what?

22 MR. SCHILTZ: Do not have markings on them.

23 MR. RHODUNDA: Okay.

24 THE COURT: Okay. So you want these now
25 admitted as what? Exhibits what?

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1 MR. RHODUNDA: I think as one exhibit package, I
2 presume. I also was going to go through and identify each
3 one as an exhibit, which I'm going to do. I'm just trying
4 to make this easier.

5 THE COURT: Yes. I'm going to -- I may need to
6 refer to these, so if you want these admitted as Exhibit 2,
7 then you can go ahead and mark them as 2-A, B, C, et cetera
8 on the back of each individual photograph. I also should
9 note that while I have admitted Defense Exhibit 1, the
10 police report, you folks have not given me a copy of that.
11 In other words, I've said it's admitted but we don't
12 actually have the document which would be a good thing to
13 have.

14 MR. RHODUNDA: Correct, Your Honor.

15 THE COURT: So do you have it?

16 MR. RHODUNDA: Yes, I do.

17 THE COURT: Okay.

18 (Documents passed forward.)

19 MR. RHODUNDA: I would like to mark these as 2-A
20 through ...

21 THE COURT: Sure. Do you want to take a pen and
22 do that?

23 MR. RHODUNDA: Just scribble on the back?

24 THE COURT: Just do it on the reverse side, and
25 that would be fine.

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1 (Pause.)

2 MR. RHODUNDA: Your Honor, I have a number of
3 different photographs. If I could just question the witness
4 from this location and hand them the photographs for a
5 description?

6 THE COURT: That's fine. That's fine.

7 BY MR. RHODUNDA:

8 Q. Mr. Sokolove, I'm handing you what has been marked as
9 Exhibit 2-A. Can you please describe for the Court what
10 that photograph shows?

11 A. It is a photograph of a property about three or four
12 properties down from my restaurant on Lake Avenue. It shows
13 two things: It shows the bed and breakfast on the left and
14 it has my markings as to where signs had been placed by me
15 prior to the time they were taken.

16 Q. So you are indicating those signs were removed; is
17 that correct?

18 A. Yes, sir.

19 Q. Do you have some Xs that are between the curb and the
20 sidewalk?

21 A. Yes, sir.

22 Q. How many do you have there?

23 A. On this photograph, it appears to be two.

24 MR. RHODUNDA: Would the Court like to see these
25 as we go through them?

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1 THE COURT: Yes, it's probably a help if, after
2 you ask him, you take back, give it to the clerk and that
3 way, I'll be looking at what you just asked about. Thanks.

4 MR. RHODUNDA: Okay.

5 BY MR. RHODUNDA:

6 Q. I'm now handing you Exhibit 2-B. Can you describe
7 the location of that, what that picture describes?

8 A. This is what Mr. Bainter was referring to I believe
9 when he said at the end of the property. It's a floor pot
10 or box, I'm sorry, and it shows presently one of my and the
11 other candidate signs in the box.

12 Q. And is that current location an approved location
13 according to the City policy?

14 A. I don't know what their policy is. I mean it's there
15 now. It's where they took it from before so I don't know
16 what their policy is, honestly.

17 THE COURT: All right.

18 (Documents passed forward.)

19 BY MR. RHODUNDA:

20 Q. Now I'm going to show you Exhibit 2-C which is the
21 front of your restaurant.

22 A. Yes, sir.

23 Q. And I believe you marked a location on that that
24 shows a sign that was removed, according to you?

25 A. Yes, sir.

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1 Q. Okay.

2 A. That's a flower pot which is at the very end of the
3 building itself, and there was a sign in the pot. It had
4 previously been in front of the windows but Mr. Bainter and
5 I thought it would not be good to place it in front of the
6 windows so that patrons would not looking out at a campaign
7 sign, so I moved it over to the side to where flower pot is
8 and it was taken by the City at the flower pot.

9 Q. You did not see the City take that?

10 THE COURT: Let me interrupt for just a minute.

11 Mr. Sokolove.

12 THE WITNESS: Yes, sir.

13 THE COURT: This is D 2-A. What is the address
14 there, if you know?

15 THE WITNESS: Yes, sir. It would be -- it would
16 probably be 67 Lake Avenue, would be about three doors down.

17 THE COURT: All right. And does it correspond
18 to one of the properties listed on P 1 or P 2?

19 THE WITNESS: Yes, sir.

20 THE COURT: Which one?

21 THE WITNESS: I think it's the large one. It
22 would correspond to Plaintiffs' Exhibit 1 and it would be
23 roman numeral, small roman numeral 3.

24 THE COURT: All right.

25 THE WITNESS: And on Plaintiffs' Exhibit 2, it

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1 would also be small roman numeral 3.

2 THE COURT: Same question or questions as to D
3 2-B which is?

4 THE WITNESS: That would be, that would be on
5 Plaintiffs' Exhibit 1 and 2, roman numeral small I on each
6 of 1 and 2.

7 THE COURT: All right. Thanks, go ahead,
8 Mr. Rhodunda, please.

9 MR. RHODUNDA: Thank you, Your Honor.

10 BY MR. RHODUNDA:

11 Q. I wanted to ask you another question about this
12 photograph. The sidewalk in front of your restaurant, is
13 that on public property?

14 A. I have no idea. It was built by the owner of the
15 property. I don't know and I've not gotten an answer from
16 the City. When I was going to build, I was asking and I
17 couldn't get a correct answer.

18 Q. Now, you have a plot plan that you submitted to the
19 City related to your building a parking lot sitting in front
20 of you at this time; is that correct?

21 A. No, sir.

22 Q. What does that plan show?

23 A. This is somebody's plot plan. It wasn't submitted by
24 me.

25 Q. Does it show your current business, however?

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1 A. It does.

2 Q. And doesn't it show your property lines?

3 A. I think it's very unclear what it shows, actually, to
4 be honest. It shows out where the sidewalk comes out.

5 Q. Doesn't it show that the sidewalk, though, is outside
6 of your property lines?

7 A. I don't know. If you can show it to me, perhaps -- I
8 don't know. I don't know. Because it's inconsistent with.
9 For example, it doesn't show the street behind it so it's
10 incorrect in that if you follow the sidewalk straight back,
11 it should go into the street and you don't see that either.

12 Q. Well, you do have three steps that come down from
13 your restaurant; is that correct?

14 A. I believe there is three, yes, sir.

15 Q. And this plan actually shows three steps coming down
16 to the sidewalk; isn't that correct?

17 THE COURT: Let me interrupt because I want to
18 make sure. I don't want to prevent anybody from making
19 record they think they want to make here, but I want to
20 understand what is at issue here. As I understand it, the
21 challenge is made that the ordinance, which is specifically
22 City Ordinance 74-16 is facially unconstitutional and that
23 even if it's not facially unconstitutional, it's been
24 applied in an unconstitutional manner because it hasn't been
25 historically consistently applied. Do I understand the

Sokolove - cross

1 import of the complaint?

2 MR. SCHILTZ: Yes.

3 THE COURT: All right. Now, I understand the
4 issue of whether signs were taken from private property as
5 opposed to public property may have some inferential or at
6 least I'm assuming the reason you are putting this in front
7 of me is because you intend to argue that I could infer
8 something about intent on the part of the City officials.
9 Give me a proffer, because I'm getting deeper and deeper
10 into private property lines in a day that I don't have a lot
11 of time to give you and I just want to make sure we're using
12 the time I have for your folks productively.

13 MR. SCHILTZ: I think it's a legitimate
14 question, but I think it frankly gets to the heart of one of
15 the problems, Your Honor, and that is that there is no clear
16 demarcation line between what the City thinks is public
17 property and what people think is private property. The
18 evidence we believe will show that they haven't taken an
19 appropriate stance on that issue. They haven't applied the
20 knowledge they have to figure that line out, if you will.
21 So I assume that the City would stipulate and say we're not
22 going to remove any signs from private property.

23 MR. RHODUNDA: That's correct. And we haven't
24 taken any from private property.

25 MR. SCHILTZ: But the question becomes what is

Sokolove - cross

1 private property or what is public property or public
2 right-of-way. And we have, in our opinion, had signs
3 removed from what we think is private property under the
4 statement, no, it's public right-of-way and therein lies the
5 issue. I understand the question. I hope I've been
6 responsive.

7 THE COURT: All right.

8 MR. RHODUNDA: It's unfortunate to get through
9 all these issues will take probably much longer than of the
10 Court could possibly take to do this. It took six hours to
11 do two depositions yesterday, for the Building Inspector to
12 the Code Officials from the City. Mr. Ferrese could testify
13 to the policies. I want to provide the Court what the Court
14 really is looking for.

15 I was trying to provide the photographs to show
16 the dispute on the enforcement end is we're talking about
17 three or four feet. If you have your signs between the curb
18 and the sidewalk, you can't do it. If you move it to the
19 other side of the sidewalk, you can. We have plenty of
20 pictures to show that. They have no pictures to show any
21 signs inappropriately being placed between the curb and the
22 sidewalk. That is just the right-of-way and we take them
23 from there.

24 So we're talking really this is a matter of, on
25 the enforcement side, we believe a matter of three feet from

Sokolove - cross

1 where the sign can be but we believe we have a consistent
2 policy of enforcing that. But they have two claims, one is
3 a constitutional one and one is that you are taking signs
4 off of private property.

5 THE COURT: All right. Well, why don't we
6 focus, given the time, on that latter argument that you just
7 made. In other words, I'm just telling you it's highly
8 unlikely that my ruling in this context is going to turn
9 on where the private property line is in front of
10 Mr. Sokolove's restaurant. Okay?

11 So what I'm suggesting to you is I need both
12 sides to get -- and I understand that I've been asking some
13 precise questions myself to understand what happened here
14 and that may have directed you more into the specifics, but
15 now I'm urging both sides to back up and let's get the
16 evidence on that pertains to the question of, and I'll
17 tell you, most specifically that pertains to the question
18 of historical and current practice.

19 See, I can read the statute and the challenge to
20 whether it's facially unconstitutional or not, I don't need
21 evidence on. You will argue to me about that and I'll read
22 the law. What I need evidence on is how is has this thing
23 been handled in the past? You know, in all the elections in
24 the past, did people go pounding their signs in the ground
25 between the sidewalk and the curb? Did they put them in the

Sokolove - cross

1 median strip and nobody cares? Is this really a case, as
2 the plaintiffs urge upon me, where Mr. Sokolove's signs are
3 being taken off because there is an entrenched incumbent and
4 Mr. Ferrese is acting under his control in some fashion so
5 opponents signs are being taken off or is it a case in all
6 elections past, no signs were taken off? That's the kind of
7 thing I need evidence on. So let's redirect and not worry
8 so much about the plot plans and start talking about those
9 things which I think are at the heart of what I need
10 evidence about. Okay?

11 MR. RHODUNDA: Okay. So that would call for
12 some change in strategy, but certainly it might cut to the
13 chase quicker in light of the time.

14 THE COURT: Yes. Do you need a moment to
15 confer?

16 MR. RHODUNDA: Yes.

17 MR. SPEAKMAN: Your Honor, I need a personal
18 moment.

19 THE COURT: Okay. I'll tell you what. We'll
20 take a little personal comfort break. Five minutes.

21 MR. SPEAKMAN: Thank you.

22 THE COURT: All right? Five minutes. We're in
23 recess.

24 THE WITNESS: Your Honor, may I step down?

25 THE COURT: You certainly may.

Sokolove - cross

1 (Brief recess taken.)

2 THE COURT: All right. Please be seated.

3 Mr. Rhodunda.

4 MR. RHODUNDA: Yes, Your Honor.

5 BY MR. RHODUNDA:

6 Q. Mr. Sokolove, just a couple quick follow-up
7 questions?

8 THE COURT: Before you continue, I will need the
9 rest of the Exhibit 2, if I may.

10 (Documents passed forward.)

11 THE COURT: Thanks.

12 THE WITNESS: Your Honor, I think -- if I may
13 interrupt? I'm not sure if -- I'm not sure if this is one
14 of them or not.

15 MR. RHODUNDA: I believe it is, yes.

16 THE COURT: Okay. I'll have you go ahead and
17 pass that up.

18 (Documents passed forward.)

19 THE COURT: Thank you.

20 BY MR. RHODUNDA:

21 Q. Mr. Sokolove, would you please estimate for me the
22 number of signs you currently have posted in the City of
23 Rehoboth Beach?

24 A. Currently now?

25 Q. Yes.

Sokolove - cross

1 A. Just mine or mine with other names attached?

2 Q. Any sign with your name on it.

3 A. Just with my name?

4 Q. No, your name --

5 A. Or any sign? I'm sorry, I misunderstood what you
6 said. I'm going to guestimate right now perhaps 50, maybe,
7 but perhaps less. It depends how many are gone.

8 Q. Now, you are aware, though, you could place these
9 signs on private property; is that correct?

10 A. I presume so, yes, sir.

11 Q. And could you describe Rehoboth, generally? Is it
12 primarily a residential community?

13 A. There are two different parts of Rehoboth. There are
14 areas exclusively residential and there is a part which is
15 zoned and which is, for the most part, exclusively
16 commercial.

17 Q. Yesterday, we reviewed maps with you that had
18 pictures in front of commercial businesses and private
19 residences; is that correct?

20 A. Yes, sir.

21 Q. And you had the ability to place signs on private
22 property presumably if you asked that person for permission;
23 is that correct?

24 A. You have the right to do it. A lot of properties,
25 there is no place where the signs are visible either because

Sokolove - cross

1 you get up against the line, for example, when it's
2 commercial, it's right up against the property line and the
3 signs would be taken. Plus, I mean, to me, you want to put
4 them where they're most visible, not just where. You know,
5 you want to put them in visible areas so people can see
6 them.

7 MR. RHODUNDA: I don't have any further
8 questions.

9 THE COURT: Redirect?

10 MR. SCHILTZ: No, Your Honor.

11 THE COURT: All right. Mr. Sokolove, thanks.

12 You may step down.

13 THE WITNESS: Your Honor, what do you want me to
14 do with these?

15 THE COURT: You can leave those right there.

16 I'll have the attorneys clean up after you.

17 THE WITNESS: Thank you, Your Honor.

18 THE COURT: All right. What was your intent at
19 this point, Mr. Schiltz?

20 MR. SCHILTZ: My intent was to call
21 Ms. Cargnino.

22 THE COURT: She is here?

23 MR. SCHILTZ: She is here. She will probably
24 take five minutes at most.

25 THE COURT: And then you are done?

Cargnino - direct

1 MR. SCHILTZ: No, Your Honor. I have one other
2 witness.

3 THE COURT: And what is your expected length of
4 time?

5 MR. SCHILTZ: He should not be long at all. He
6 is going to talk about pictures we submitted in connection
7 with our application and what they are.

8 THE COURT: Given the time I've got --

9 MR. SCHILTZ: It will be very quick.

10 THE COURT: It will be. Like 15 minutes tops,
11 Mr. Schiltz.

12 MR. SCHILTZ: Very well, Your Honor.

13 - - -

14 PLAINTIFFS' TESTIMONY

15 ... MELISSA CARGNINO, having been placed
16 under oath at 12:00 p.m. as a witness, was
17 examined and testified as follows

18 - - -

19 DIRECT EXAMINATION

20 BY MR. SCHILTZ:

21 Q. Good morning, Ms. Cargnino.

22 A. Good morning.

23 Q. Thank you for coming today. With whom are you
24 employed?

25 A. Phillips Goldman & Spence, Dewey Beach Office.

Cargnino - direct

1 Q. Are you an attorney?

2 A. Yes, sir.

3 Q. Did you have a chance to speak to Rehoboth Beach City
4 Manager Greg Ferrese on or about July 6th, 2005?

5 A. Yes, sir, I did.

6 Q. Did he call you or did you call him?

7 A. I had called him originally and he returned my
8 telephone call.

9 Q. And can you tell me the substance of that call to the
10 best of your recollection?

11 A. Sure. I had called him for two issues. The first
12 being related to the referendum and the notices of
13 insufficiency that were to be mailed out the following day
14 and the second being a question from one of my clients,
15 Betty Mann-Beebe (phonetic), regarding the placement of
16 campaign signs on public property.

17 MR. SPEAKMAN: Your Honor, could she speak into
18 the microphone? I can't hear her.

19 THE WITNESS: I'm sorry, Mr. Ferrese.

20 THE COURT: Yes. Pull yourself forward and
21 speak right into the microphone.

22 BY MR. SCHILTZ:

23 Q. And what exactly did you ask Mr. Ferrese with respect
24 to the placement of political signs?

25 A. Well, I had asked him specifically about a rumor that

Cargnino - cross

1 had been in the community regarding garbage men taking signs
2 from public property and just any specific guidelines that
3 the City may have regarding their placement.

4 Q. And what did Mr. Ferrese advise you regarding the
5 placement of campaign signs?

6 A. Well, he informed me that he was aware of their
7 existence on public property and the signs that existed
8 would not be moved, and his only concern would be putting
9 signs in the streetscape areas due to the new plantings that
10 existed in the renovated areas.

11 THE COURT: When was this conversation?

12 THE WITNESS: Pardon me, Your Honor?

13 THE COURT: When was this conversation?

14 THE WITNESS: This was July 6th of this year.

15 THE COURT: All right.

16 MR. SCHILTZ: Nothing further, Your Honor.

17 THE COURT: All right. Mr. Rhodunda, your
18 witness.

19 MR. SPEAKMAN: I'll do the questioning,
20 cross-examination, Your Honor, at this time.

21 THE COURT: That's fine.

22 CROSS-EXAMINATION

23 BY MR. SPEAKMAN:

24 Q. I'm going to refer to you as Melissa because I can't
25 pronounce your last name.

Cargnino - cross

1 A. That's quite all right.

2 Q. Can you tell me when you were hired to discuss
3 specifically the location of campaign signs?

4 A. I'm sorry. I don't believe I understand your
5 question.

6 Q. When were you hired by the plaintiffs in this case to
7 discuss with Mr. Ferrese the location of campaign political
8 signs in the city?

9 A. I had researched the issue on behalf of my clients
10 approximately a month prior, and throughout the time I had
11 addressed a few campaign related issues and I had received a
12 call from my client earlier in the day regarding that
13 specific rumor that I had mentioned.

14 Q. So it was your primary purpose, wasn't it -- because
15 I worked with I, didn't I, and Mr. Ferrese worked with you
16 in determining whether the referendum petitions were
17 sufficient?

18 A. Yes.

19 Q. Wasn't it the main purpose of your call?

20 A. No, sir, it was not. I had a dual purpose in my
21 call.

22 Q. Did you get anything in writing from him, to request
23 Mr. Ferrese to send you a letter?

24 A. No, sir, I did not.

25 Q. Why not?

Cargnino - cross

1 A. Truthfully, we, as of that time, we were aware
2 that the City was under a time crunch to get notices of
3 insufficiency for the referendum out, due to that, and I
4 accepted what he said at face value as just related directly
5 to my client.

6 Q. Are you aware of the Ordinance 74-16 of the City's
7 code that prohibited signs in the public right-of-ways and
8 public property?

9 MR. SCHILTZ: Objection, it mischaracterizes the
10 statute.

11 THE COURT: Overruled. Are you aware of
12 Rehoboth City Ordinance 74-16, ma'am?

13 THE WITNESS: Yes, sir, I am now. And I was at
14 the time and I had researched the issue but we had seen
15 signs and for other reasons we had read it differently.

16 Q. And when did you communicate to Mr. Sokolove what
17 Mr. Ferrese had said?

18 MR. SCHILTZ: Objection, lack of foundation.

19 MR. SPEAKMAN: Mr. Sokolove testified that his
20 representatives determined -- talked to Greg Ferrese about
21 the location of campaign signs, I believe. That's the
22 foundation I'm asking her.

23 THE COURT: Well, why don't you start by asking
24 her, if you would.

25 MR. SPEAKMAN: Certainly.

Cargnino - cross

1 THE COURT: I don't want to control your
2 examination but I'll sustain the objection. It assumes that
3 this is the conversation that was relayed, and I don't know
4 if that was the case.

5 BY MR. SPEAKMAN:

6 Q. Who of the plaintiffs did you relay this information
7 to?

8 A. I related this to Betty Mann-Beebe.

9 Q. Who?

10 A. Betty Mann-Beebe.

11 Q. You need to speak into the microphone. Both
12 co-counsel and I have hearing problems.

13 A. I'm sorry. Betty Mann-Beebe.

14 Q. And do you know what she did with it? You don't, do
15 you?

16 A. I can only make assumptions as to what she did with
17 it.

18 Q. I don't want you to make assumptions. Of your own
19 personal knowledge, did you hear her discuss this with any
20 of the political candidates?

21 A. The only thing I could say would be speculation.

22 Q. And the plaintiffs here had campaign signs already up
23 in the city at the date of your phone call, didn't they?

24 A. Truthfully, I drive through Rehoboth very rarely. I
25 was not aware of the existence of any campaign signs at that

Cargnino - cross

1 moment, but Mr. Ferrese had said he had seen campaign signs
2 that were already up throughout Rehoboth.

3 Q. In the public right-of-way?

4 A. Again, I didn't specifically ask him about that. He
5 said he had seen them up in Rehoboth.

6 Q. So you don't know whether this information was ever
7 conveyed, is it correct to say, was ever conveyed to the
8 plaintiffs?

9 A. I would say that would have to be correct because I
10 know they have knowledge. I don't know if it was due to my
11 conversation with City Manager Ferrese or from other
12 outlets.

13 Q. Well, who is Ms. Beebe?

14 A. Ms. Beebe has been my contact point throughout a lot
15 of the work I have done.

16 Q. On the referendum petitions, Melissa?

17 A. Yes, in addition to general election issues.

18 Q. So you don't know when if ever the plaintiffs found
19 out about your conversation with Mr. Ferrese that you have
20 written about in your affidavit; is that correct?

21 A. No. Again, it would all be an assumption that
22 obviously they do know. I couldn't tell you the exact date
23 or what have you, but they were made aware of it, I'm sure.

24 Q. Is it possible that you were mistaken in what you
25 heard from Mr. Ferrese?

Cargnino - redirect

1 A. No.

2 Q. Why is that?

3 A. Well, I asked the questions. I immediately called my
4 client with the answers, and I know those were the answers
5 that he gave. I might not know other details, potentially
6 what was said, but I know at least those statements were
7 made. Other statements in addition could potentially have
8 been made.

9 Q. At the time you talked with Ms. Ferrese, you didn't
10 know about the existence of the City Code, Section 74-16; is
11 that correct?

12 A. I had read the City code and knew of it generally
13 but, no, I didn't ask it specifically to reference a section
14 of the Code or what you have.

15 Q. Did you ask him whether -- if he knew about it, did
16 you ask him whether, what about that section? Isn't that in
17 violation of the section?

18 A. I don't believe that I asked him that.

19 Q. Okay.

20 MR. SPEAKMAN: No further questions, Your Honor.

21 THE COURT: All right. Thank you. Mr. Schiltz,
22 any redirect?

23 REDIRECT EXAMINATION

24 BY MR. SCHILTZ:

25 Q. Ms. Cargnino, was there any doubt in your mind that

Hill - direct

1 Mr. Ferrese advised you that the plaintiffs could erect
2 signs in the public right-of-way of the City of Rehoboth?

3 A. There is no doubt in my mind that he advised me that
4 signs could be placed on public property in Rehoboth.

5 MR. SCHILTZ: Thank you very much.

6 THE COURT: All right. Thanks, ma'am. You may
7 step down.

8 All right. You had one more witness.

9 MR. SCHILTZ: Yes, Your Honor. Your Honor,
10 plaintiffs call Joseph Hill.

11 - - -

12 PLAINTIFFS' TESTIMONY

13 ... JOSEPH B. HILL, having been placed
14 under oath at 12:10 p.m. as a witness, was
15 examined and testified as follows

16 - - -

17 DIRECT EXAMINATION

18 BY MR. SCHILTZ:

19 Q. Good afternoon, Mr. Hill.

20 A. Good afternoon.

21 Q. Could you tell me where you reside?

22 A. 42 Henlopen Avenue, Rehoboth Beach, Delaware.

23 Q. How long have you resided in Rehoboth Beach?

24 A. All of my life. Sixty-one years.

25 Q. What is your occupation?

Hill - direct

1 A. I'm a realtor.

2 Q. How long have you been a realtor?

3 A. Since 1965.

4 Q. Approximately, how many listings have you had for
5 sale or for lease during those years?

6 A. Probably 8,000 plus, including rental units.

7 Q. Is it your understanding that the City has
8 rights-of-way next to streets?

9 A. Yes, I do.

10 Q. What is your understanding of the City's
11 rights-of-way?

12 A. It's property where you park your car. On my street
13 on Henlopen Avenue, the City right-of-way is about 28 feet
14 from the edge of the road to the property line, to the front
15 property line.

16 Q. Is it a consistent application throughout the City of
17 where the property line right-of-ways are?

18 A. No, it's not. It varies from Henlopen Avenue to
19 Columbia Avenue to Park Avenue where there are no sidewalks
20 or curbs. The south side of Rehoboth has sidewalks and
21 curbs and so is easily defined. On the north side of town,
22 many streets do not have the curb and sidewalk.

23 Q. How is it defined when there is a curb and sidewalk?

24 A. The sidewalk is maintained by the property owner but
25 it's owned by the City.

Hill - direct

1 Q. And what about the area between the curb and the
2 sidewalk?

3 A. City property. Public property.

4 Q. In your in excess of 40 years of realty work in
5 Rehoboth Beach, have you placed signs in what you believe to
6 be the City's right-of-way?

7 A. I probably have.

8 Q. Have you ever been asked to remove a realty sign from
9 the City's rights-of-way?

10 A. I have not been asked to move any, no.

11 Q. Did you ever run for political office in the City of
12 Rehoboth?

13 A. Three years ago, I did.

14 Q. What office?

15 A. For City Commissioner.

16 Q. Did you erect political signs in connection with
17 that?

18 A. I put political signs throughout the City.

19 Q. Can you give me a -- let me say it this way. Did you
20 erect political signs in areas that you believed to be the
21 City's rights-of-way?

22 A. Yes, I did.

23 Q. Can you give me some specific examples?

24 A. I put political signs at the entrance of State Road,
25 which is either City or State property.

Hill - direct

1 I put campaign signs at the end of each street
2 the day before the election which was City property, public
3 property.

4 I put them along at Second Street and Third
5 Street in a triangle. I placed them on Henlopen Avenue,
6 Columbia Avenue, many streets in the City.

7 Q. Again, were any of those signs removed by the City?

8 A. No, not to my knowledge they were not.

9 MR. SCHILTZ: Briefly, Your Honor, I'm going to
10 mark a few exhibits.

11 THE COURT: While you do that, I'm going to ask
12 a question or two myself.

13 Mr. Hill, you've lived in the City I think you
14 said your entire life; is that correct?

15 THE WITNESS: Yes.

16 THE COURT: Is it fair to say you've noticed
17 over the course of the decade how election signs come up and
18 go down at or around the time of elections?

19 THE WITNESS: Yes.

20 THE COURT: You testified about your own
21 experience with the signs that you put up for your election
22 or when you ran for office. Was that experience consistent
23 with what you had seen take place with political signs in
24 the past or was it inconsistent?

25 THE WITNESS: If it's what I saw in the past,

Hill - direct

1 there has not been a problem with political signs in the
2 past.

3 THE COURT: When you say there hasn't been a
4 problem, are you telling me that in your years there with
5 the City, have you seen political signs at election time put
6 between the sidewalk and the curb, for example?

7 THE WITNESS: Yes.

8 THE COURT: Off the streets and they stayed
9 there throughout the election season?

10 THE WITNESS: Yes, they have.

11 THE COURT: Go ahead, Mr. Schiltz.

12 I'm going to ask an additional question.

13 Was there ever a time in your experience, living
14 in Rehoboth throughout this period, where you noticed that
15 political signs placed in locations like that were removed
16 or taken away by the City?

17 THE WITNESS: No.

18 THE COURT: All right.

19 MR. SCHILTZ: May I approach?

20 THE COURT: You may freely approach.

21 (Documents passed forward.)

22 MR. SCHILTZ: I'm handing the witness what has
23 been marked as Exhibit 10.

24 THE COURT: Have these been shown to opposing
25 counsel?

Hill - direct

1 MR. SCHILTZ: Your Honor, the answer is yes,
2 they were attached to our application for relief, but I am
3 happy to show them right now.

4 THE COURT: Would you, please.

5 (Counsel confer.)

6 BY MR. SCHILTZ:

7 Q. Mr. Hill, can you tell me what Plaintiffs' Exhibit 10
8 is?

9 A. Three political signs in the Schoolview Development
10 that is on Bay Road and I believe it's New Castle Street
11 Extended.

12 Q. Sir, you submitted an affidavit in connection with
13 this which states that intersection is at State Road and Lee
14 Street?

15 A. Lee Street, that's correct.

16 Q. Is it? Which one is it?

17 A. It's Lee Street. The streets are close together, one
18 block away from each other.

19 Q. Now I'm confused. Where is that picture taken?

20 A. I believe it's at Bay Road and New Castle Street
21 Extended.

22 Q. How do you -- that is a picture. Were you present
23 when that picture was taken?

24 A. Yes, I was.

25 Q. Does that picture fairly and accurately portray the

Hill - direct

1 scenes at that intersection at that time?

2 A. Yes.

3 Q. And what date was that picture taken?

4 A. Oh, I believe it was a week ago, Thursday.

5 Q. And in your affidavit, you said it was either July
6 18th or July 20th. Would that be accurate?

7 A. Yes.

8 Q. Sir, I'm asking you to look under the sign in the
9 middle, the Sam Cooper sign. Do you see that?

10 A. Yes.

11 Q. Do you see immediately behind the Sam Cooper sign?
12 Well, strike that. Is there something immediately behind
13 the Sam Cooper sign?

14 A. There is the telephone pole there.

15 Q. And do you recall that telephone pole being there
16 when you took -- when this picture was taken?

17 A. Yes.

18 THE COURT: Do you want to move the admission of
19 this picture?

20 MR. SCHILTZ: Yes, Your Honor.

21 MR. RHODUNDA: We're not going to object. I
22 don't know how many they intend to produce but if they could
23 do it as a package to speed this up? I understand they're
24 going to submit these. We're going to certainly contest all
25 of them, and we'll do them one by one, ourselves.

Hill - direct

1 THE COURT: When you say you will contest them?

2 MR. RHODUNDA: Well, contest what these pictures
3 stand for because the photograph says something Mr. Hill has
4 his opinion on what they mean and how long they were in
5 existence.

6 THE COURT: Sure. But as to their
7 admissibility?

8 MR. RHODUNDA: But not the foundation, no. I
9 have no foundation objections to it. He says she took them
10 on July 18th or 20th. We accept these pictures represent
11 what these photographs show.

12 THE COURT: Okay. Go ahead. And why don't you
13 save us some time here by listing them out and we've move
14 them in.

15 MR. SCHILTZ: That is fine, too, Your Honor.

16 MR. RHODUNDA: It would be easier, however, if
17 you would keep them as part of the package submitted to the
18 Court. They're submitted as Plaintiffs' Memorandum in
19 Support of the Motion For TRO.

20 THE COURT: Well, I disagree. It will help me
21 if they're listed one at a time.

22 MR. RHODUNDA: Okay.

23 THE COURT: Because evidently there is going to
24 be some question about what these things show. You said you
25 are going to dispute it, so it doesn't help me to say the

Hill - direct

1 third photograph in on exhibit whatever. We're going to
2 mark them and you can make the arguments; all right?

3 (Mr. Rhodunda sits down.)

4 MR. SCHILTZ: While I'm engaged in this
5 exercise, sir --

6 THE COURT: Yes. Can one of your colleagues
7 help you out with this so you can be asking questions?

8 MR. SCHILTZ: Yes.

9 THE COURT: Mr. Schiltz?

10 BY MR. SCHILTZ:

11 Q. Let me direct your attention to what is going to be
12 marked as Plaintiffs' Exhibit 25.

13 MR. SCHILTZ: Again, Your Honor, this is a
14 picture I do not have a copy of. And I apologize for that.

15 BY MR. SCHILTZ:

16 Q. Can you identify what Plaintiffs' Exhibit 25 is?

17 A. This picture is the two political signs in front of
18 Henry DeWitt's residence on Columbia Avenue and Dover Street
19 and he is a City Commissioner.

20 Q. Mr. DeWitt is a City Commissioner?

21 A. Yes.

22 Q. What does that picture portray? The judge doesn't
23 have a copy.

24 A. It portrays political signs on public property.

25 Q. Can you describe these signs in relation? Is there a

Hill - direct

1 fire hydrant in the picture?

2 A. There is a fire hydrant to the left of the Barbour
3 political sign, and there is a street sign behind it on a
4 silver post.

5 Q. Are the political signs in front of or behind the
6 fire hydrant?

7 A. They are in front of.

8 Q. Are the political signs in front of or behind the
9 stop sign?

10 A. They are in front of the stop sign.

11 Q. Did you take that picture?

12 A. I took this picture.

13 MR. SCHILTZ: I move this picture, Your Honor,
14 Plaintiffs' Exhibit 25.

15 MR. RHODUNDA: No objection, Your Honor.

16 THE COURT: It is admitted without objection.

17 * * * (Plaintiffs' Exhibit No. 25 was received into
18 evidence.)

19 BY MR. RHODUNDA:

20 Q. Mr. Hill, I'm going to hand you what has been
21 previously marked as Plaintiffs' Exhibits 12 through 24.

22 THE COURT: Did you already offer 11?

23 MR. SCHILTZ: I believe I did, Your Honor. If I
24 didn't move the admission of Plaintiffs' Exhibit 11 -- I
25 believe we did.

Hill - direct

1 THE COURT: I understand it's without objection.

2 MR. RHODUNDA: No objection.

3 THE COURT: It's in.

4 * * * (Plaintiffs' Exhibit No. 11 was received into
5 evidence.)

6 BY MR. RHODUNDA:

7 Q. Mr. Hill, can you tell me -- and I'm sorry to back
8 up. Plaintiffs' Exhibit 25 that we referred to a moment
9 ago, we've now given the judge, can you tell me when you
10 took that picture?

11 A. It's been about two weeks ago, I believe.

12 THE COURT: Now, before you go on, I interrupt
13 you before you asked any questions about 11, and I would
14 like to know where this is. Where is this?

15 THE WITNESS: This is on State Road on the west
16 side of the street going out of town.

17 THE COURT: Thanks a lot. All right. Thanks.

18 THE WITNESS: It's about a block and-a-half from
19 Rehoboth Avenue.

20 THE COURT: Thank you.

21 Okay. Mr. Schiltz, I'm going to ask you to put
22 with the whole stack in front of him and have him give
23 locations with exhibit numbers; all right? And if there is
24 something like a phone pole that is not immediately evident,
25 you can go ahead and point it out, but now we're to the

Hill - direct

1 point I have to move you through it.

2 MR. SCHILTZ: I understand, Your Honor.

3 BY MR. SCHILTZ:

4 Q. Can you look at Plaintiffs' Exhibit 12?

5 A. Yes.

6 Q. Were you present when that photograph was taken?

7 A. Yes.

8 Q. Can you tell me where it was taken? Where that
9 location is?

10 A. I believe it's on Henlopen Avenue. It's not on
11 Henlopen. I'm not exactly sure.

12 Q. Is it within the City of Rehoboth?

13 A. Yes, it is.

14 Q. Okay. Look at Plaintiffs' Exhibit 13. Can you
15 identify where that is located?

16 THE COURT: Mr. Rhodunda?

17 A. It's in the City of Rehoboth.

18 MR. RHODUNDA: Can you show them to me as you
19 are going through them?

20 MR. SCHILTZ: (Showing photograph.)

21 MR. RHODUNDA: Thank you.

22 BY MR. SCHILTZ:

23 Q. And this is a loan Dennis Barbour signed; is that
24 correct?

25 A. Yes.

Hill - direct

1 Q. And where --

2 A. It's in the City of Rehoboth. I'm not exactly sure
3 what street.

4 Q. In your affidavit, you said it was on the south side
5 of Sixth Street; is that accurate?

6 A. Yes.

7 Q. Turning to Plaintiffs' Exhibit 14 --

8 THE COURT: Is the set you gave to Mr. Rhodunda
9 marked?

10 MR. SCHILTZ: No, Your Honor.

11 THE COURT: Then you are going to need to make
12 sure you show him as you are doing it so they know the ones
13 you are asking about.

14 MR. SCHILTZ: We will. Fourteen (Indicating.)

15 MR. RHODUNDA: Thank you.

16 MR. SCHILTZ: I gave it to them in order.

17 THE COURT: Fine. Still show it to him.

18 MR. SCHILTZ: I certainly understand, Your
19 Honor.

20 THE COURT: Thanks.

21 BY MR. SCHILTZ:

22 Q. Can you identify where Plaintiffs' Exhibit 14 is?

23 A. This is at the corner of Bay Road and State Road.

24 Q. In your affidavit, you said it's at the intersection
25 of New Castle Street Extension and Bay Road. Is that